

Domain Name Registration and Dispute Resolution in China

In 2007, the China Internet Network Information Center (CNNIC) recommended domain name registrars reduce their prices for registering a .cn domain name, suggesting one yuan (0.13 USD) per registration. Some registrars dramatically cut prices. The lower price of domains created incentives for unscrupulous companies to register domains based on trademarks or existing domains in order to seek a payment for cancellation or assignment of the registration. American firms have received unsolicited offers from Chinese service providers offering to register domain names for them in China, sometimes noting that other firms have already attempted to do so.

We cannot advise you on the utility or cost of buying a domain from such a company or vouch for the bona fides (good faith) of service providers and their offers. There are many scams occurring in China today as some individuals recognize that they can use trademarks, design patents, utility models, domain names and other rights as income generating tools, whose cost of acquisition can be lower than the cost of contesting the right. However, here are a few initial steps you may consider:

1. Verify that the service provider who contacts you is authorized to accept applications and registration of internet domain names in China. The Administrative Measures for Internet Domain Names of the Ministry of Information Industry (MII) gives the responsibility for both accepting applications of domain name registration and completing registration to service organizations, which must be authorized by MII. The website -- <http://www.cnnic.cn/> -- provides information on domain name registrations and a list of approved service organizations. Click on “English Version,” then go to the “CNNIC Services” box at the bottom of the page and click on “Accredited Registrars,” under the “Domain Name” heading. In addition to checking whether the firm which contacted you is authorized by MII to register domestic CN domain names, you might contact a few other authorized registrars under “CN Domestic Registrars” for quotes. (“CDN Registrars” is for domain names using Chinese characters as opposed to English. CNNIC advises that “CN Oversea (sic) Registrars” have specifically indicated their capability of handling inquiries in English.)
2. Search the domain name database to determine if the domain name is already registered. On the <http://www.cnnic.cn/> website, simply enter the name (don’t include “www”) followed by “.cn,” in the yellow box in the upper left hand corner. If the name has not been yet registered, you can contact one or more of the authorized registrars as explained under item 1, above, to proceed with a registration. To search “.com” domain names, you might try <http://www.Internic.net>.
3. If your domain name is registered, you might research options for disputing the registration. MII’s China Internet Network Information Center (CNNIC) can cancel a registered domain name based on a decision handed down by a court, arbitration organization, or domain name disputes settlement organization. The China International Economic and Trade Arbitration Commission's Domain Name Dispute Resolution Center is prepared to accept inquiries in English and advise how to proceed to resolve a domain name dispute: <http://dndrc.cietac.org>. While domain names are separate and distinct from trademarks, the Domain Name Dispute Resolution Center advises that a registered trademark in China is one factor which might be helpful in disputing a domain name registration. For that reason and many others, we highly recommend you secure, protect and enforce trademarks and other intellectual property rights in China. We have provided additional information below.

Basic IPR Information

Many U.S. firms do not realize that their U.S. patents and trademarks do not protect them outside the United States. If, for example, you enter the China market without having registered your trademark in China in English or Chinese, one of your competitors, distributors or partners could register before you and bar *you* from manufacturing or selling products bearing *your* trademark in China, or even exporting them from China. Even if you are not currently doing business in China, someone in China may have already registered your trademark, having seen it on the Internet or at a trade show. Securing your IPR in China can be key to global IPR protection.

The attached flyer introduces various tools for U.S. rights holders to protect their IPR in China, including: the StopFakes.gov website and the 1-866-999-HALT hotline, where you can set up a free one-on-one consultation with a U.S. Government expert; the American Bar Association (abanet.org), where you can register for a free one-hour consultation with a private attorney; and the China IPR Toolkit, which is a comprehensive on-line guide to registering, protecting and enforcing your IPR in China. It also explains how you can register to participate in regular webinars on China IPR issues. Through the IPR e-Recordation website, you can also record your registered trademarks and copyrighted works to help U.S. Customs stop infringing products at the border. Through the USPTO website you can obtain information on facilitating the registration of trademarks and patents in overseas markets through international agreements: the Madrid Protocol and the Patent Cooperation Treaty.

For more specific inquiries not addressed by the information resources above, you may wish to e-mail USPTOChina@mail.doc.gov. In the United States, follow-up inquiries may also be addressed to: Ellen.Szymanski@mail.doc.gov.

Please note that none of the information contained in this e-mail or in the China IPR Flyer or its attachments should be construed as legal advice. United States rights holders should engage competent legal counsel to secure, protect and enforce their intellectual property rights in China.

Information on competent lawyers in China may be available from your U.S. law firm which may have a relationship with a Chinese law firm, published directories of Chinese patent and trademark agents and law firms, by meeting lawyers or intellectual property companies at seminars and symposia throughout China, through Internet searches and other sources.

The following is a list of law offices in China prepared by American Citizen Services of the U.S. Embassy, which includes the municipalities of Beijing and Tianjin, the provinces, and autonomous regions. The list includes private and quasi-private Chinese law firms as well as private American law firms with a presence in the various Consular districts. Most of the firms listed specialize in commercial law, but many are qualified to offer advice on a full range of legal issues. Note: International Direct Dialing: China Country Code is +86 The Embassy cannot assume responsibility for the professional ability or integrity of the listed lawyers, nor should listing in any directory be understood as an endorsement, explicit or implicit of their services.

http://beijing.usembassy-china.org.cn/legal_assistance2.html